

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO.226 OF 2005

Anil V. Anturkar and others	Petitioners
versus	
Mumbai Municipal Corporation	
and others	Respondents

Mr.Y.S.Jahagirdar, Senior Counsel i/by
S.B.Deshmukh, adv. for petitioners.
Ms.P.A.Purandare, adv. for respondent.
Mr.S.K.Dubey, adv. for respondents 3 and 4.
Mr.A.Sayed, adv. for respondent no.6.

CORAM : H.L.GOKHALE AND
 S.C.DHARMADHIKARI, JJ.
DATE : 25th January 2005

PC :

1. Heard Mr.Jahagirdar in support of this petition. Ms.Purandare appears for respondents 1 and 2. Mr.Sayad appears for respondent no.6 and Mr.Dubey appears for respondents 3 and 4.

2. This petition is filed by occupants of a building known as "Bake House" situated in Fort, Mumbai. They are occupying certain rooms situated on the second and third floors of this building. They are professionals and they have purchased these rooms from respondents 3 and 4. The petition seeks to challenge the notice dated 18th January 2005 issued by first respondent Municipal Corporation. The notice is addressed

to respondent no.5, respondent no.3 and first petitioner. The notice alleges that they have erected a building contrary to the provisions of Sections 342 and 347 of the Mumbai Municipal Corporation Act, 1888 and changed the existing user thereof. The notice calls upon them u/s 351 to show cause within seven days as to why said building should not be pulled down.

3. Mr.Jahagirdar, learned Senior Counsel appearing for petitioners submits that the first petitioner wrote a letter to the Municipal Commissioner and Ward Officer asking for the sanctioned building plan. The same was not furnished and now the action of demolition is likely to be taken, and, therefore, this petition is filed to challenge this notice.

4. Ms.Purandare, learned municipal advocate submits that notice calls upon the petitioners to show cause. The petitioners may even now represent to the Executive Engineer, Building Proposals, seeking necessary information and he will make available the information available on his record. Needless to state that if there is no sanctioned plan, he certainly will not make available the same but he will inform whatever is

the position with respect to the building and particularly 2nd and 3rd floors thereof. On receiving the reply, the petitioners may thereafter file a further representation if they deem it fit whereupon the Ward Officer may taken his own decision as to whether he should still proceed with the notice u/s 351. The Ward Officer in all such circumstances inform the parties and call upon them to remove the structures within seven days after such further notice. Needless to state that unless this further notice is given, the structures on the second and third floors will not be demolished. Petitioners may follow accordingly and in the event they receive any such notice thereafter, it will be open for them to take appropriate action as they may decide. The petitioners will make the aforesaid representation to the concerned Executive Engineer within one week from today. The Executive Engineer, Building Proposals will make available necessary information or give reply within two weeks thereafter. It is for the Ward Officer to take his decision thereafter which he may take within two weeks. Petition stands disposed of with this order while reserving all the contentions of petitioners for the further proceedings if required.

((-4-))

(H.L.GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)